REMARKS

Claims 76-98 are the claims currently pending in the Application. Claims 76-78, 82-86, 89-95 and 98 are amended herein. The amendments to independent claims 76 and 98 are made to clarify the embedding step by reciting "inserting data and/or one or more instructions within said executable file before or after said identified one or more instructions and/or one or more variables, whereby any inserted instruction implements license verification code and any inserted data is license related". Further, an additional step of "relocating all instructions and all variables within said executable file affected by the insertion(s), and adapting all instructions and all variables within said executable file that relate to the relocated instruction(s) or variable(s)" is recited. The remaining amended claims are merely adapted to correspond to independent claim 76 as amended herein. Support for these amendments can be found on page 35, lines 5 to 26, page 36, lines 13 to 24 and in Figures 7 and 8. No new matter has been entered into the disclosure by way of the present amendment.

Response To Rejections Under 35 U.S.C.§ 102

The Examiner rejected claims 76-98 under 35 U.S.C. § 102(e) as being anticipated by Biddle et al., U.S. Patent Publication No. 2002/0107809 A1. This rejection should be withdrawn based on the comments and remarks herein.

Biddle et al. discloses a method of wrapping licensing instructions around a software product for managing licenses and restricting software usage according to a given license, e.g. license enforcement (paragraphs 0013-0015). This "wrapping" is a technology that is known in the art, in which new code (for example, licensing code) is

added before the beginning of an original executable file. Biddle et al. discloses that "the wrapping process is comprised of, for example, a wrapping tool the distributor 25 uses to: compress and/or encrypt the software application; add a software module to check for valid licenses and tampering; <u>add new start-up code</u> and change the starting address to point to the new code; and add ID's to identify the software application" (paragraph 0081, underline added). The adding of new start-up code corresponds to the above-mentioned insertion of the new licensing code before the original executable file so that the new licensing code is executed before the original code is executed. Correspondingly, the starting address has to be changed.

Throughout the specification of Biddle et al., the term "wrapping" is consistently used to describe adding of new licensing code before the beginning of an original executable file. Biddle et al. only refers to this specific and well known technique and does not disclose or make suggestions to a different way of inserting or embedding new code/instructions into an existing executable file.

This known "wrapping" technology advantageously regards the original code as a monolithic and opaque block. Accordingly, the wrapping technology does not need to know anything about the internal structure of the original code and does not change it. The new additional functionality, such as new licensing code, is appended before the original code block. Then the entry point (start address) of the original executable is modified so that the program execution starts with the newly added code, which, in turn, invokes the original executable code. The instructions of the original code are completely identical before and after the wrapping procedure and are located at exactly the same memory addresses before and after the wrapping procedure.

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By constrast, the present invention as recited in amended independent claims 76 and 98, includes the steps of identifying one or more instructions and/or one or more variables <u>within</u> the executable file, and inserting data and/or one or more instructions <u>within</u> said executable file before or after said identified one or more instructions. In other words, the present invention modifies the internal structure of the original executable file. The present invention learns about the executable code by *identifying one or more instructions and/or one or more variables within the executable file* and how the instructions/variables relate to each other. Based on the information gained about the executable file, it becomes possible to insert new functionality, i.e. new instructions and/or data, into the original code, i.e. between instructions/variables of the original executable file. This is possible since through the identifying step, it becomes possible to relocate all instructions and all variables within said executable file effected by the insertions, and to adapt all instructions and variables within said executable file that relate to the relocated instructions and variables.

As explained above, the wrapping technology disclosed by Biddle et al., "… for wrapping license management code around the application to create a license management protected application; …" (paragraph 0015), only suggests appending new code at the beginning of an existing executable file. In contrast hereto, the present invention suggests a much more secure and reliable possibility of implementing instructions and/or variables in an existing executable file in order to ensure the protection of digital rights and license rights. Therefore, Biddle et al. does not disclose or suggest the recitations of independent claims 76 and 98. Further, claims 77-97 depend from independent claim 76, thus incorporating novel and nonobvious features of the base
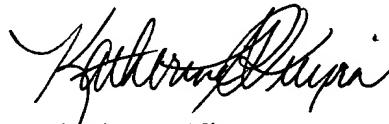
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claims. Accordingly, claims 77-97 are patentably distinguishable over the prior art for at least the reasons that independent claim 76 is patentably distinguishable over the prior art. Therefore, this rejection should now be withdrawn.

Conclusion

It is therefore believed that the subject matter of the present invention is not only novel but also nonobvious over the prior art.

For at least the reasons set forth in the foregoing discussion, Applicant believes that the Application is now allowable, and respectfully requests that the Examiner reconsider the rejection and allow the Application. Should the Examiner have any questions regarding this Amendment, or regarding the Application generally, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,

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